

TREC Advisor

Our agency protects consumers of real estate services in Texas by ensuring qualified and ethical service providers through upholding high standards in education, licensing, and regulation. We oversee the providers of real estate brokerage, appraisal, inspection, home warranty, timeshares and right-of-way services, thereby safeguarding the public interest while facilitating economic growth and opportunity across Texas.



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What Should I Tell My Client When Employing an Inspector?

Most residential home sales involve an inspector at some point in the process. What should a real estate agent tell their client when the client desires to employ an inspector? Here are four tips.

1. **Have your client there for the inspection.** The purchase of a home is a significant investment and being part of the process provides a client a better understanding of the home and any possible issues they may need to be addressed in the purchase process.
2. **Have your client ask the inspector questions.** The inspector is there to assist the client in providing information about the home. The inspector has the responsibility to protect and promote the interest of their client (typically the buyer) to the best of the inspector's ability and knowledge, recognizing that the client has placed the client's trust and confidence in the inspector. If any item or comment in the report is unclear the client should ask the inspector to clarify and educate them about the finding.
3. **Have your client read the full report.** The inspection report helps the client in the purchase of the home. The inspection

does not eliminate all risks but may reduce the risk in the purchase of the home. Reading and understanding the full report allows the client to make an informed decision on the purchase of the home.

4. **Have your client follow up on the recommendations in the report, if they feel it is necessary.** The inspection report notes deficiencies, if any, with systems in the home. An inspector may recommend that a client have another professional perform further evaluations on any deficient systems. It is the responsibility of the client to follow up on these recommendations before the expiration of any limitations such as an option period. A real estate inspection is not an exhaustive inspection of the structure, systems, or components. Therefore, it is important a client obtain other evaluations, if the client feels it is necessary.

Your client should be actively involved in the inspection process. This is a client's best opportunity to gain knowledge about any deficiencies in the property. A licensed inspector is there to render a fair and impartial opinion regarding the inspection performed.



Avis Wukasch, Chair

From the Chair ...

The Commission had its regular quarterly meeting on August 15th. As usual we heard reports from the Executive Director and from each of the five Division Directors. The Commissioners continue to be impressed with the amount of work that the agency staff accomplishes and with the progress being made on various policy

initiatives that we have approved to enhance the effectiveness of our mission. We also received reports from four of our committees on their progress between meetings. And we handled several pending issues connected to disciplinary matters and Recovery Fund claims.

Our Internal Audit firm Garza/Gonzales gave us a clean report on this year's annual audit results. This validates that key controls are in place to ensure laws, rules and policies are being followed and operational results reported to us regularly are accurate and reliable. These are the findings we have come to expect from our team year after year. Thanks to our staff for their diligence and hard work.

And welcome to our new Director of Staff & Support Services – Priscilla Pipho, who acts as our Chief Financial Officer. Working with our Executive Director, exceptional financial results were reported for the end of FY2016 and a new budget was proposed for FY2017. Due to a continued rise in the number of sales agents and strong financial management, we approved several steps that reflect that strength and our commitment to lower license fees when fiscally prudent. The approved budget adds to our reserves, and would reduce each sales agent license renewal from \$72 to \$66 for a two-year term. We published for comment a corresponding rule that, if approved, will allow this as of January 1, 2017.

Upon the recommendation of the Educations Standards Advisory Committee, we adopted the previously proposed detailed curriculum guidance for the Real Estate Marketing 30-hour qualifying course. At the recommendation of the Real Estate Inspector Advisory Committee, we adopted the previously proposed clarifications and reorganization of the Inspector Standards of Practice. Each is a positive step forward.

The agency received notice of an international education award from ARELLO for our innovative Broker Responsibility Course, which was recognized for its practical curriculum and interactive design elements. This is the second time the agency has been recognized for this unique and effective course. Sincerest congratulations to all involved in writing this course and to the almost 500 instructors who teach it! We also approved the latest updated version of this great course which will be offered in 2017 and 2018.

This fall we will continue to work with the professional associations of our license holders to find ways to clarify relevant advertising rules and to be fully prepared to address the key issues we anticipate for the 2017 legislative session. We are also working closely with the Real Estate Center at Texas A&M and the Texas Association of REALTORS to refine our plans for the inaugural Summit on Single Family Residential Real Estate issues, which will bring together professionals and regulators from across the industry to explore ways to reduce barriers to an effective and flourishing market for home owners. Stay tuned!

We welcome designer/builder Fred Rangel of San Antonio to the Broker/Lawyer Committee as a public member appointed by Governor Greg Abbott. We look forward to his contribution bringing a consumer protection perspective to the vital work of this committee as it drafts standard contracts and forms for use in most sales and purchases of homes, and in many other real property transactions in Texas.

Our next meeting will be held on Monday November 14th at 10AM at our HQ building in Austin. We welcome you to join us if you can, or tune in to our meeting simulcast on the agency website. We are proud of our team and the work we do. Hope all of your favorite teams are winners too!

TREC Enforcement Actions

The Texas Real Estate Commission has published enforcement actions. To read the full report and get access to all of the enforcement actions taken by the Commission, you can read [the August report here](#).

Governor Appoints New Broker Lawyer Committee Member

The Texas Real Estate Commission (TREC) is pleased to announce the appointment of a new public member to the Broker-Lawyer Committee. Freddie (Fred) Rangel, of San Antonio has been appointed to serve a five year term effective immediately. The Broker-Lawyer Committee drafts and revises standard real estate contract forms to bring consistency to real estate transactions, provide safeguards to protect the principals in a transaction and minimize potential controversy.

Fred Rangel is the founder and president of ADCO Professional Services established 1991 and ADCO Master Builders, Inc, established in 2008. The company's strength has been private industry with a focus in the commercial construction division. Projects under the company's belt include hotel

construction, restaurants, schools, and the Memorial to 9/11 in San Antonio. Mr. Rangel has been an active member of his community on the City of San Antonio Bond Committee, South Texas Business Fund, and Board of the Eckhert Crossing Home Owners Association. He Studied at the University of Pennsylvania in Philadelphia with Design of the Environment and the Wharton School of Business.

Mr. Rangel and the entire Broker-Lawyer Committee play an vital role in the process of reviewing real estate promulgated contracts which affect many types of real estate transactions in Texas. TREC welcomes the contributions of the entire Broker-Lawyer Committee and thanks them for their willingness to serve.

TREC Employee Update



Melissa Huerta

Staff and Support Services

Melissa has returned to work at TREC. She worked for the State of Texas for 31 years before retiring on May 31, 2016. Melissa had a wonderful 3 month vacation and decided that she was too young to stay retired, so she has returned to work. She has been happily married for 30 years and have three wonderful adult children. Melissa enjoys reading, gardening, and spending time with family and friends. She looks forward to applying my many years of experience and knowledge into this new position with TREC.



Christine Pack

Reception and Communications Services

Christine Pack began employment with TREC in June as a Customer Service Representative. Prior to TREC, she was a benefit counselor with the Teacher Retirement System of Texas for 8 years. Prior to state service she worked in the banking industry in collections and assisting with researching with fraud management and also skip tracing and training new hires. In her spare time she enjoys cooking and spending quality time with family and friends.

Rule Actions Taken at the August Commission Meeting

The following amendments or new rules were proposed at the August 15, 2016, meeting of the Commission and are up for adoption at the November 14, 2016, meeting. You can see the full text of these rules on the "Proposed Rules" section of the TREC Website. Written comments on the proposed rules can be sent to general.counsel@trec.texas.gov and must be received prior to 5 p.m. October 3, 2016 to be considered by the appropriate advisory committee and included in the materials for the November meeting. After that date, comments will need to be made in person at the meeting.

Adopted:

The following amendments or new rules were adopted at the August 15, 2016, meeting of the Commission and were effective September 7, 2016. You can see the full text of these rules on the "Recently Adopted Rules" section of the TREC Website.

§535.53, Requirements for Licensure. The amendments clarify that a business entity must be qualified to transact business in Texas at all times to maintain an active license and that the business entity must notify TREC when it is no longer qualified to transact business in Texas. In addition, the amendments more fully set out the scope of required errors and omissions insurance coverage.

§535.55, Education and Sponsorship Requirements for a Salesperson License. The amendments align the rule with statutory changes in SB 699, enacted by the 84th Legislature regarding the number of hours required for continuing education and changing term "salesperson" to "sales agent."

§535.64, Content Requirements for Qualifying Real Estate Courses. The amendments provide consistency and better quality in Real Estate Marketing qualifying courses and are recommended by the Commission's Education Standards Advisory Committee.

§535.83, Association of Designated Broker on Claim. The new rule clarifies which designated broker is to be associated with a licensed business entity when a Real Estate Recovery Trust Account claim is filed or paid on behalf of that licensed business entity.

§535.123, Inactive Broker Status. The amendments clarify that a licensed business entity becomes inactive when it is no longer qualified to transact business in Texas or it's designated broker's license is suspended, or revoked, including probated suspension or revocation.

§535.191, Schedule of Administrative Penalties. The amendments lower the administrative penalty for bad check violations and include a penalty for violations of 22 TAC §535.53.

§535.227, Standards of Practice: General Provisions;
§535.228, Standards of Practice: Minimum Inspection Requirements for Structural Systems; §535.229, Standards of Practice: Minimum Inspection Requirements for

Electrical Systems; §535.230, Standards of Practice: Minimum Inspection Requirements for Heating, Ventilation, and Air Conditioning Systems; §535.231, Standards of Practice: Minimum Inspection Requirements for Plumbing Systems; §535.232, Standards of Practice: Minimum Inspection Requirements for Appliances; and §535.233, Standards of Practice: Minimum Inspection Requirements for Optional Systems. The amendments restructure and renumber these sections to streamline wording and remove redundant language to provide clarity and consistency throughout the inspector SOP's.

Proposed:

The following amendments were proposed at the August 15, 2016, meeting of the Commission and are up for adoption at the November 14, 2016, meeting. You can see the full text of these rules on the "Proposed Rules" section of the TREC Website. Written comments on the proposed rules can be sent to general.counsel@trec.texas.gov and must be received prior to 5 p.m. October 3, 2016 to be considered by the appropriate advisory committee and included in the materials for the November meeting. After that date, comments will need to be made in person at the meeting.

§534.2, Processing Fees for Dishonored Payments. The amendments are proposed to clarify that a processing fee is due when a payment to the Commission, through any form of payment, is dishonored or reversed due to insufficient funds or for any other reason, including stop payment.

§535.2, Broker Responsibility. The amendments are proposed to clarify that a broker must notify the Commission when the appointment of a delegated supervisor has ended except that a newly licensed broker or a broker associate named as a delegated supervisor is responsible to notify the Commission if their status as a delegated supervisor changes.

§§535.4, License Required, and 535.5, License Not Required. The amendments are proposed to clarify the definition of what constitutes showing property in light of the statutory requirement that license holders must pass criminal background reviews prior to licensure. The amendments also set out the only circumstances under which an unlicensed assistant can show or an unescorted person can be provided access to a vacant property. The rule was also updated to replace the term "salesperson" with the new statutory term of "sales agent."

§535.45, Certain uses of Seal, Logo, or Name Prohibited. The amendments are proposed to clarify that license holders may not use the seal, logo, or name of the Commission to imply they are a government agency or have received special Commission endorsement or status.

§535.57, Examinations. The amendments are proposed to clarify the period that examination results remain valid for an application and better align the rules with the statutory

Rule Actions Taken at the August Commission Meeting

period set forth in Texas Occupations Code, §1101.401(f).

§535.62, Approval of Qualifying Courses. The amendments are proposed to clarify that authorization for subsequent use of a previously approved course must be given by the owner of the rights to the course, which may or may not be the provider for whom the course was initially approved.

§535.65, Responsibilities and Operations of Providers of Qualifying Courses. The proposed amendments remove the requirement for education completion certificates to include the registration date since that information not necessary for the Commission to calculate compliance with statutory timeframes for course completion.

§535.72, Approval of Non-elective Continuing Education Courses. The amendments are proposed to clarify that classroom students must take the promulgated final examination independently prior to the instructor reviewing the correct answers.

§535.73, Approval of Elective Continuing Education Courses. The amendments are proposed to clarify that authorization for subsequent use of a previously approved course must be given by the owner of the rights to the course, which may or may not be the provider for whom the course was initially approved.

§535.101, Fees. The proposed amendments implement the budget and budget policies adopted by the Commission at their August meeting. Accordingly, renewal fees for sales agents are being reduced by \$6. Additionally, the fee section for examinations was amended to indicate that those fees are a pass through fee negotiated in a contract with the vendor and can vary from contract to contract. Finally, the rule was amended to clarify that a processing fee is due when a payment to the Commission, through any form of payment, is dishonored due to

insufficient funds or any other reason, including stop payment.

§535.218, Continuing Education Required for Renewal. The proposed amendments to §535.218 change the continuing education requirements for non-elective coursework to include a four-hour course developed by the Commission in conjunction with the Texas A&M University Real Estate Center. The proposed amendments would allow license holders to receive continuing education credit for education courses taken outside of Texas and for in-person attendance at the February meeting of the Texas Real Estate Inspector Advisory Committee. The proposed amendments also make typographical corrections and conforming changes for consistency with other Commission rules.

§535.63, Approval of Instructors of Qualifying Courses. The proposed amendments to §535.63 conform this section with the proposed amendments to §535.218, Continuing Education Required for Renewal, for consistency.

§535.74, Approval of Continuing Education Instructors. The proposed amendments to §535.74 conform this section with the proposed amendments to §535.218, Continuing Education Required for Renewal, for consistency.

§§535.201, Definitions, and 535.212, Education and Experience Requirements for a License. The proposed amendments to §§535.201 and 535.212 conform those sections with the proposed amendments to §535.218, Continuing Education Required for Renewal, for consistency.

IMPORTANT DATES TO REMEMBER

ESAC Committee Meeting—October 10

TREC Commission Meeting—November 14

Check the [TREC website](#) regularly for postings of all of our upcoming meetings.